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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,000	06/26/2003	Steven Reynolds	2050.123US1	8368
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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			EXAMINER INGVOLDSTAD, BENNETT	
			ART UNIT 2427	PAPER NUMBER
			NOTIFICATION DATE 12/27/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/609,000

Applicant(s)

REYNOLDS ET AL.

Examiner

Bennett Ingvaldstad

Art Unit

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31, 33, 34 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31, 33, 34, and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 27 September 2010 have been fully considered. Applicant's arguments concerning the new limitations are moot in view of the new rejections which cite additional art. Applicant additionally argues that Cheok does not define a plurality of manners based on a context, referring to the cited portion. Remarks at 14. However, Applicant misquotes the cited portion, replacing the "and" conjunction with "whereby" and thus combining two separate clauses into one, which changes the quotation's meaning. Specifically, a scene may be change based on context other than a "Search, View, or Reserve option." For example, the user may reposition a scene object (col. 3, ll. 61–64), the user's inputs thus defining the context in conjunction with the scene description. Since the scene description allows the user to interact with the scene and thus change the manner in which the objects are combined, the scene description thus defines a plurality of manners of combining the objects by allowing for user interaction.

Applicant additionally argues that Jeannin's profile is only used to notify a viewer of advertisements, rather than change which objects are displayed. However, Jeannin teaches that the user profile may be used to skip the downloading of irrelevant advertisements (para. 0039). Therefore Jeannin's profile can modify the display of advertisements by precluding them from being displayed, thus affecting the manner in which the objects of the scene are combined.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1–11, 20–33, 34, and 36–39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the claims have been amended to require that the presentation description defines a plurality of manners in which a portion of a first image and a portion of a second image can be combined. However, the specification teaches that each portion of an image may only be combined with another portion in a single way. See e.g. Figure 4, illustrating that each of portions 406, 408, 410, and 412 may be combined with a second image 402 in a single way. The specification does not teach that a portion can be combined with other images or portions of images in a plurality of ways. See also the Office letter mailed 1 May 2009, containing written description rejections for the same issue.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1–11, 20–31, 33, 34, and 36–39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheok (US 6934906) in view of Jeannin (US 2002/0083469) and Shahine (US 7082576).

Claim 1: Cheok discloses a method of producing a video signal from a system for outputting video programming to at least one viewer, said method comprising:

receiving a first video signal at said system, the first video signal representing a first video feed (Fig. 4: step 401 includes receiving at least one media stream);

processing said first video signal to produce a first image stored in memory of said system (402 [Fig 4], information may be an image [col. 3, l. 56]), said first image not intended to be displayed independently (object is combined into a scene 405 [Fig 4]);

receiving a second video signal at said set top box, the second video signal representing a second video feed different from the first video feed (Fig. 4: step 401 includes receiving “at least one” media stream, i.e. more than one media stream may be received);

processing said second video signal to produce a second image stored in said memory of said system, said second image not intended to be displayed independently (402, 405 [Fig 4], information may be an image [col. 3, l. 56]);

receiving a presentation description in said system (Fig. 2: scene description info 225 and integration instructions 222), said presentation description comprising a set of instructions that define a manner in which a portion of said first image and a portion of said second image are combined (scene description information 225 and integration instructions 222 [col. 4, l. 56 – col. 5, l. 38] for creating scene 250 or 556. The images may be overlaid on each other as in scene 556, thus only portions of the images are displayed), the manner in which the images are combined being selected from a plurality of different manners of image combinations (the manner of combination is context dependent [col. 3, l. 44-46], thus a plurality of manners are defined based on context), and the presentation description instructions also defining a sequence of operations performed over time (e.g. moving objects [col. 3, l. 61-67]);

combining said portion of said first image with said portion of second image in accordance with said selected manner in which the images are combined of said presentation description to produce a combined image (e.g. scenes 250 or 556); and

outputting said combined image as said video signal as part of said video programming to said at least one viewer (scene 250 on display device [Fig 2]).

Cheek does not further explicitly teach that the selected manner is chosen based on user preference information in the system.

Jeannin teaches a similar method for composing an MPEG-4 scene from multiple objects (para. 0032) including advertising objects (para. 0033). The method comprises providing objects in accordance with a user preference of the system by which a user selects which type of advertisements should be displayed (para. 0039).

It would have been obvious to apply Jeannin's method for composing an MPEG-4 scene based on user preferences to Cheok's method of composing an MPEG-4 scene for the purpose of only displaying the objects that are desired by a user.

Shahine teaches a device for composing a displayed scene using a presentation description to arrange objects (Abstract), wherein the arranged objects include images (col. 13, ll. 20–29), in a plurality of manners based on a priority associated with the object (Abstract), wherein the priority is determined based on user preference information stored in the device. The presentation description thus defines a plurality of manners in which the images may be combined by combining images according to their priority, such that different users' priorities cause the object to be combined in a different manner.

It would have been obvious to apply the priority display method to the combination's system for compositing portions of images including advertisements, thus allowing a user to prioritize certain advertisements and cause them to be displayed differently based on the priority.

Claim 2: Cheok further discloses applying a mask that defines said portion of said first image (overlying applications on images [col. 8, l. 35-43], also scene 556 [Fig 5]).

Claims 3 and 4 are rejected over Cheok's logical/mathematical combination of the decoded AV media objects 541 into a composite scene 556 [Fig 5].

Claim 5: Cheok further discloses scaling said portion of said first image (media objects' size can be adjusted [col. 3, l. 5-10]).

Claim 6 is rejected in view of the claim 5 rejection construing "scaling" as a type of "warping".

Claim 7: Cheok further discloses fetching accessing said presentation description across a network [col. 5, l. 38-50].

Claim 8: Cheok further teaches receiving a network address at which said presentation description can be accessed (downloading from a network [col. 3, l. 3-6] implies receiving an address); and fetching said presentation description from said network address [col. 3, l. 3-6].

Claim 9: Cheok further discloses selecting said presentation description from a plurality of presentation descriptions contained in said first video signal (different information is shown depending on context [col. 3, l. 43-67]).

Claim 10: Cheok further discloses modifying said presentation description in response to input from said at least one viewer [col. 3, l. 43-67].

Claim 11: Cheok further teaches:
processing said first video signal to produce first audio data stored in said memory of said system (media objects may be audio objects [col. 10, l. 27-30]);
processing said second video signal to produce second audio data stored in said memory of said set top box [col. 10, l. 27-30];

accessing said presentation description that describes the manner in which said first audio data and said second audio data are combined (scene description information 225 and integration instructions 222 [col. 4, l. 56 – col. 5, l. 38]); and

combining said first audio data and said second audio data in accordance with said presentation description (combining to form composite audiovisual scene 550 [Fig 5]).

Claim 20. Cheok in view of Jeannin and Shahine further teaches a method as discussed above, and further teaches a transmitter for transmitting the first and second digital video signals with the image combination code and the presentation description (the receiver method of Cheok's Fig. 4 implies a transmitter; see also Cheok's scene description information 225 and integration instructions 222 [col. 4, l. 56 – col. 5, l. 38]).

Claim 21: Cheok further discloses transmitting a network address that said set top box employs to access said presentation description [col. 3, l. 3-6].

Claim 22: Cheok further discloses transmitting said presentation description to said set top box as a part of said first digital video signal (540 and 541 are both received from network [Fig 5]).

Claim 23: Cheok further discloses selecting said presentation description from a plurality of presentation descriptions wherein said presentation description conforms to the requirements of said set top box [col. 3, l. 43-67].

Claim 24: Cheok further discloses altering a general presentation description to conform to the requirements of said set top box (adapting and preprocessing decoder and integration instructions for executing by a processor [col. 5, l. 1-10]).

Claim 25: Cheek further discloses tailoring a general presentation description to correspond to a viewer preference [col. 3, l. 44-67].

Claim 26: Cheek further discloses transmitting a plurality of presentation descriptions to said set top box from which said set top box selects one presentation description that conforms to the requirements of said set top box (selection based on context [col. 3, l. 44-67]).

Claim 27. Cheek in view of Jeannin and Shahine further teaches a receiver system for implementing the above methods, the system comprising a processor (210 [Fig 2]); a memory, said memory coupled to said processor (220 [Fig 2]); a tuner/decoder (network interface 250 [Fig 2]); a video controller (composition renderer - Fig 5) a program code (instructions 221 and 222 [Fig 2] for composing the scene [col. 9, l. 7-9]); and a video output unit (display device 230 [Fig 2]).

Claim 28: Cheek further discloses a network interface that accesses a remote server to obtain said presentation description (250 [Fig 2], for downloading scene description [col. 3, l. 3-6]).

Claim 29: Cheek further discloses wherein said decoder further produces first audio data in said memory from said first video information and produces second audio data in said memory from said second video information (first and second media objects may be audio objects [col. 10, l. 27-30]).

Claim 30: Cheek further discloses wherein said presentation description further specifies the manner in which said first audio data is combined with said second audio

data (scene description information 225 and integration instructions 222 specify how media objects are combined [col. 4, l. 56 – col. 5, l. 38]).

Claim 31: Cheek further discloses a user interface that receives an input from said at least one viewer that modifies said presentation description [col. 3, l. 44-67].

Claim 33: Cheek further discloses a software routine that controls said decoder to perform at least part of the combination of said portion of said first video image and said portion of said second video image in a manner specified by said presentation description (decoder/integration instructions 221 and 222 [Fig 2]).

Claim 34: Cheek further discloses a software routine that selects said presentation from a plurality of presentation descriptions contained in said first video signal [col. 3, l. 44-67].

Claim 36. Cheek further teaches that variables may dynamically control a display movement (see col. 3, ll. 61–65, teaching that a “talking head” object may be moved in response to user interaction).

Claim 37. Cheek further teaches that the presentation description specifies how the images will be overlaid on each other (see Fig. 5 and description, illustrating combined scene 550 with overlaid images) and thus how the portions of the images will be combined and displayed.

Claim 38. Cheek further teaches specifying the scene locations of the combine objects (see Fig. 5 and description, illustrating scene 550 with combined images at defined locations)

Claim 39. Cheok further teaches that the selected manner may comprise a replacement of a portion of an image with another portion of an image (i.e. an overlay, col. 8, ll. 37–39).

Claims 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheok in view of Jeannin.

Claim 12. Cheok in view of Jeannin further teaches a method as discussed above, Cheok's media objects further comprising videos or animation (col. 4, l. 50, 51) and thus comprising sequences of images; and Jeannin further teaching multiple methods of displaying objects in a video scene based on user preferences (para. 0039: e.g. showing or not showing certain ad types) and thus multiple presentation descriptions, each object/presentation having an identifier corresponding to user preferences (para. 0039: e.g. a type identifier for identifying an ad as a "car" or "gadget" ad) so that user preferences dictate which objects are presented (para. 0016; para. 0039).

Claim 13: Cheok further discloses applying a mask specified in said presentation description that defines said portion of said first sequence of images (overlying applications on images [col. 8, l. 35-43], also scene 556 [Fig 5]).

Claim 14: Cheok further discloses executing program code that modifies said mask to select a different portion of at least one image of said first sequence of images (modifying the scene [col. 3, l. 44-67]).

Claims 15 -17 and 19 are rejected as indicated in the rejections of claims 3-5 and 10, respectively.

**Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over
Cheek in view of Jeannin and Duncombe (US 6792573).**

Claim 18. Cheek in view of Jeannin and Shahine does not further teach that the user preferences comprise viewer demographics.

Duncombe teaches a method of combining scene objects to form a composite scene, the scene objects being combined based on a user profile which comprises demographic data (Fig. 6c; col. 12, ll. 32-41).

It would have been obvious to use demographics data in the user profile, as taught by Duncombe, for the purpose of further refining the selection of content by using additional user preference criteria such as demographics.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/
Examiner, Art Unit 2427

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/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427